

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# SENATE BILL 1288

AN ACT

AMENDING SECTION 11-251, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 11; RELATING TO LOCAL STORMWATER QUALITY PROGRAMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-251, Arizona Revised Statutes, is amended to  
3 read:

4 11-251. Powers of board

5 The board of supervisors, under such limitations and restrictions as  
6 are prescribed by law, may:

7 1. Supervise the official conduct of all county officers and officers  
8 of all districts and other subdivisions of the county charged with assessing,  
9 collecting, safekeeping, managing or disbursing the public revenues, see that  
10 such officers faithfully perform their duties and direct prosecutions for  
11 delinquencies, and, when necessary, require the officers to renew their  
12 official bonds, make reports and present their books and accounts for  
13 inspection.

14 2. Divide the counties into such districts or precincts as required by  
15 law, change them and create others as convenience requires.

16 3. Establish, abolish and change election precincts, appoint  
17 inspectors and judges of elections, canvass election returns, declare the  
18 result and issue certificates thereof.

19 4. Lay out, maintain, control and manage public roads, ferries and  
20 bridges within the county and levy such tax for that purpose as may be  
21 authorized by law.

22 5. Provide for the care and maintenance of the sick of the county,  
23 erect and maintain hospitals for that purpose and, in its discretion, provide  
24 a farm in connection with the county hospital and adopt ordinances for  
25 working the farm.

26 6. Provide suitable rooms for county purposes.

27 7. Purchase, receive by donation or lease real or personal property  
28 necessary for the use of the county prison and take care of, manage and  
29 control the property, but no purchase of real property shall be made unless  
30 the value has been previously estimated by three disinterested citizens of  
31 the county, appointed by the board for that purpose, and no more than the  
32 appraised value shall be paid for the property.

33 8. Cause to be erected and furnished a courthouse, jail and hospital  
34 and such other buildings as necessary, and construct and establish a branch  
35 jail, when necessary, at a point distant from the county seat.

36 9. Sell at public auction, after thirty days' previous notice given by  
37 publication in a newspaper of the county, stating the time and place of the  
38 auction, and convey to the highest bidder, for cash or contract of purchase  
39 extending not more than ten years from the date of sale and upon such terms  
40 and conditions and for such consideration as the board shall prescribe, any  
41 property belonging to the county that the board deems advantageous for the  
42 county to sell, or which the board deems unnecessary for use by the county,  
43 and shall pay the proceeds thereof into the county treasury for use of the  
44 county, except that personal property need not be sold but may be used as a  
45 trade-in on the purchase of personal property when the board deems this

1 disposition of the personal property to be in the best interests of the  
2 county. When the property for sale is real property, the board shall have  
3 such property appraised by a qualified independent fee appraiser who has an  
4 office located in this state. The appraiser shall establish a minimum price,  
5 which shall not be less than ninety per cent of the appraised value. The  
6 notice regarding the sale of real property shall be published in the county  
7 where the property is situated and may be published in one or more other  
8 counties, and shall contain, among other things, the appraised value, the  
9 minimum acceptable sale price, and the common and legal description of the  
10 real property. Notwithstanding the requirement for a sale at public auction  
11 prescribed in this paragraph, a county, with unanimous consent of the board,  
12 without a public auction, may sell or lease any county property to any other  
13 duly constituted governmental entity, including the state, cities, towns and  
14 other counties. A county, with unanimous consent of the board, without  
15 public auction, may sell or lease any county property for a specific use to  
16 any solely charitable, social or benevolent nonprofit organization  
17 incorporated or operating in this state. A county may dispose of surplus  
18 equipment and materials that have little or no value or that are  
19 unauctionable in any manner authorized by the board.

20 10. Examine and exhibit the accounts of all officers having the care,  
21 management, collection or disbursement of money belonging to the county or  
22 appropriated by law or otherwise for the use and benefit of the county.

23 11. Examine, settle and allow all accounts legally chargeable against  
24 the county, order warrants to be drawn on the county treasurer for that  
25 purpose and provide for issuing the warrants.

26 12. Levy such tax annually on the taxable property of the county as may  
27 be necessary to defray the general current expenses thereof, including  
28 salaries otherwise unprovided for, and levy such other taxes as are required  
29 to be levied by law.

30 13. Equalize assessments.

31 14. Direct and control the prosecution and defense of all actions to  
32 which the county is a party, and compromise them.

33 15. Insure the county buildings in the name of and for the benefit of  
34 the county.

35 16. Fill by appointment all vacancies occurring in county or precinct  
36 offices.

37 17. Adopt provisions necessary to preserve the health of the county,  
38 and provide for the expenses thereof.

39 18. With the approval of the department of health services, contract  
40 with any qualified person to provide all or part of the health services,  
41 funded through the department of health services with federal or state  
42 monies, that the board in its discretion extends to residents of the county.

43 19. Contract for county printing and advertising, and provide books and  
44 stationery for county officers.

1           20. Provide for rebinding county records, or, if necessary, the  
2 transcribing of county records.

3           21. Make and enforce necessary rules and regulations for the government  
4 of its body, the preservation of order and the transaction of business.

5           22. Adopt a seal for the board, a description and impression of which  
6 shall be filed by the clerk in the office of the county recorder and the  
7 secretary of state.

8           23. Establish, maintain and conduct or aid in establishing, maintaining  
9 and conducting public aviation fields, purchase, receive by donation or lease  
10 any property necessary for that purpose, lease, at a nominal rental if  
11 desired, sell such aviation fields or property to the United States or any  
12 department, or sell or lease such aviation fields to a city, exchange lands  
13 acquired pursuant to this section for other lands, or act in conjunction with  
14 the United States in maintaining, managing and conducting all such  
15 property. If any such property or part of that property is not needed for  
16 these purposes, it shall be sold by the board and the proceeds shall be paid  
17 into the general fund of the county.

18           24. Acquire and hold property for the use of county fairs, and conduct,  
19 take care of and manage them.

20           25. Authorize the sheriff to offer a reward, not exceeding ten thousand  
21 dollars in one case, for information leading to the arrest and conviction of  
22 persons charged with crime.

23           26. Contract for the transportation of insane persons to the state  
24 hospital or direct the sheriff to transport such persons. The county is  
25 responsible for such expense to the extent the expense is not covered by any  
26 third party payor.

27           27. Provide for the reasonable expenses of burial for deceased  
28 indigents as provided in section 36-831 and maintain a permanent register of  
29 deceased indigents including name, age and date of death, and when burial  
30 occurs, the board shall mark the grave with a permanent marker giving the  
31 name, age, and date of birth, if known.

32           28. Sell or grant to the United States the title or interest of the  
33 county in any toll road or toll train in or partly within a national park,  
34 upon such terms and consideration as may be agreed upon by the board and the  
35 secretary of the interior of the United States.

36           29. Enter into agreements for acquiring rights-of-way, construction,  
37 reconstruction or maintenance of highways in their respective counties,  
38 including highways that pass through Indian reservations, with the government  
39 of the United States, acting through its duly authorized officers or agents  
40 pursuant to any act of Congress, except that the governing body of any Indian  
41 tribe whose lands are affected must consent to the use of its land, and any  
42 such agreements entered into before June 26, 1952 are validated and  
43 confirmed.

1           30. Do and perform all other acts and things necessary to the full  
2 discharge of its duties as the legislative authority of the county  
3 government.

4           31. Make and enforce all local, police, sanitary and other regulations  
5 not in conflict with general law.

6           32. Budget for funds for foster home care during the school week for  
7 mentally retarded and otherwise handicapped children who reside within the  
8 county and attend a school for the handicapped in a city or town within such  
9 county.

10          33. Do and perform all acts necessary to enable the county to  
11 participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat.  
12 508), as amended.

13          34. Provide a plan or plans for its employees that provide tax deferred  
14 annuity and deferred compensation plans as authorized pursuant to title 26,  
15 United States Code. Such plans shall allow voluntary participation by all  
16 employees of the county. Participating employees shall authorize the board  
17 to make reductions in their remuneration as provided in an executed deferred  
18 compensation agreement.

19          35. Adopt and enforce standards for shielding and filtration of  
20 commercial or public outdoor portable or permanent light fixtures in  
21 proximity to astronomical or meteorological laboratories.

22          36. Subject to the prohibitions, restrictions and limitations as set  
23 forth in section 11-830, adopt and enforce standards for excavation, landfill  
24 and grading to prevent unnecessary loss from erosion, flooding and  
25 landslides.

26          37. Make and enforce necessary ordinances for the operation and  
27 licensing of any establishment not in the limits of an incorporated city or  
28 town in which is carried on the business of providing baths, showers or other  
29 forms of hydrotherapy or any service of manual massage of the human body.

30          38. Provide pecuniary compensation as salary or wages for overtime work  
31 performed by county employees, including those employees covered by title 23,  
32 chapter 2, article 9. In so providing, the board may establish salary and  
33 wage plans incorporating classifications and conditions prescribed by the  
34 federal fair labor standards act.

35          39. Establish, maintain and operate facilities that provide for  
36 physical evaluation, diagnosis and treatment of patients and that do not keep  
37 patients overnight as bed patients or treat patients under general  
38 anesthesia.

39          40. Enact ordinances under its police authority prescribing reasonable  
40 curfews in the entire unincorporated area or any area less than the entire  
41 unincorporated area of the county for minors and fines not to exceed the fine  
42 for a petty offense for violation of such ordinances. Nothing in this  
43 paragraph shall be construed to require a request from an association or a  
44 majority of the residents of an area before the board may enact an ordinance  
45 applicable to the entire or any portion of the unincorporated area. An

1 ordinance enacted pursuant to this paragraph shall provide that a minor is  
2 not violating a curfew if the minor is accompanied by a parent, a guardian or  
3 an adult having supervisory custody, is on an emergency errand or has been  
4 specifically directed to the location on reasonable, legitimate business or  
5 some other activity by the parent, guardian or adult having supervisory  
6 custody. If no curfew ordinance is applicable to a particular unincorporated  
7 area of the county, the board may adopt a curfew ordinance on the request or  
8 petition of either:

9 (a) A homeowners' association that represents a majority of the  
10 homeowners in the area covered by the association and to which the curfew  
11 would apply.

12 (b) A majority of the residents of the area to which the curfew would  
13 apply.

14 41. Lease or sublease personal property owned by the county to other  
15 political subdivisions of this state to be used for a public purpose.

16 42. In addition to the agreements authorized by section 11-651, enter  
17 into long-term agreements for the purchase of personal property, provided  
18 that the board may cancel any such agreement at the end of a fiscal year, at  
19 which time the seller may repossess the property and the agreement shall be  
20 deemed terminated.

21 43. Make and enforce necessary ordinances not in conflict with the laws  
22 of this state to regulate off-road recreational motor vehicles that are  
23 operated within the county on public lands without lawful authority or on  
24 private lands without the consent of the lawful owner or that generate air  
25 pollution. For the purposes of this paragraph, "off-road recreational motor  
26 vehicle" means three and four wheel vehicles manufactured for recreational  
27 nonhighway all terrain travel.

28 44. Acquire land for roads, drainage ways and other public purposes by  
29 exchange without public auction, except that notice shall be published thirty  
30 days before the exchange, listing the property ownership and descriptions.

31 45. Purchase real property for public purposes, provided that final  
32 payment shall be made not later than five years after the date of purchase.

33 46. Lease-purchase real property and improvements for real property for  
34 public purposes, provided that final payment shall be made not later than  
35 twenty-five years after the date of purchase. Any increase in the final  
36 payment date from fifteen years up to the maximum of twenty-five years shall  
37 be made only on unanimous approval by the board of supervisors.

38 47. Make and enforce ordinances for the protection and disposition of  
39 domestic animals subject to inhumane, unhealthful or dangerous conditions or  
40 circumstances. An ordinance enacted pursuant to this paragraph shall not  
41 restrict or limit the authority of the game and fish commission to regulate  
42 the taking of wildlife. For the purposes of this paragraph, "domestic  
43 animal" means an animal kept as a pet and not primarily for economic  
44 purposes.

1           48. If a part of a parcel of land is to be taken for roads, drainage,  
2 flood control or other public purposes and the board and the affected  
3 property owner determine that the remainder will be left in such a condition  
4 as to give rise to a claim or litigation concerning severance or other  
5 damage, acquire the whole parcel by purchase, donation, dedication, exchange,  
6 condemnation or other lawful means, and the remainder may be sold or  
7 exchanged for other properties needed for any public purpose.

8           49. Make and enforce necessary rules providing for the reimbursement of  
9 travel and subsistence expenses of members of county boards, commissions and  
10 advisory committees when acting in the performance of their duties, if the  
11 board, commission or advisory committee is authorized or required by federal  
12 or state law or county ordinance, and the members serve without compensation.

13           50. Provide a plan or plans for county employee benefits that allow for  
14 participation in a cafeteria plan that meets the requirements of the United  
15 States internal revenue code of 1986.

16           51. Provide for fringe benefits for county employees, including sick  
17 leave, personal leave, vacation and holiday pay and jury duty pay.

18           52. Make and enforce ordinances that are more restrictive than state  
19 requirements to reduce or encourage the reduction of carbon monoxide and  
20 ozone levels, provided an ordinance does not establish a standard for  
21 vehicular emissions, including ordinances to reduce or encourage the  
22 reduction of the commuter use of motor vehicles by employees of the county  
23 and employees whose place of employment is in unincorporated areas of the  
24 county.

25           53. Make and enforce ordinances to provide for the reimbursement of up  
26 to one hundred per cent of the cost to county employees of public bus or van  
27 pool transportation to and from their place of employment.

28           54. Lease for public purposes any real property, improvements for real  
29 property and personal property under the same terms and conditions, to the  
30 extent applicable, as are specified in sections 11-651 and 11-653 for  
31 lease-purchases.

32           55. Enact ordinances prescribing regulation of alarm systems and  
33 providing for civil penalties to reduce the incidence of false alarms at  
34 business and residential structures relating to burglary, robbery, fire and  
35 other emergencies not within the limits of an incorporated city or town.

36           56. In addition to paragraph 9 of this section, and notwithstanding  
37 section 23-504, sell or dispose of, at no less than fair market value, county  
38 personal property that the board deems no longer useful or necessary through  
39 a retail outlet or to another government entity if the personal property has  
40 a fair market value of no more than one thousand dollars, or by retail sale  
41 or private bid, if the personal property has a fair market value of no more  
42 than fifteen thousand dollars. Notice of sales in excess of one thousand  
43 dollars shall include a description and sale price of each item and shall be  
44 published in a newspaper of general circulation in the county, and for thirty  
45 days after notice other bids may be submitted that exceed the sale price by

1 at least five per cent. The county shall select the highest bid received at  
2 the end of the thirty day period.

3 57. Sell services, souvenirs, sundry items or informational  
4 publications that are uniquely prepared for use by the public and by  
5 employees and license and sell information systems and intellectual property  
6 developed from county resources that the county is not obligated to provide  
7 as a public record.

8 58. On unanimous consent of the board of supervisors, license, lease or  
9 sell any county property pursuant to paragraphs 56 and 57 of this section at  
10 less than fair market value to any other governmental entity, including this  
11 state, cities, towns, public improvement districts or other counties within  
12 or outside of this state, or for a specific purpose to any charitable, social  
13 or benevolent nonprofit organization incorporated or operating in this state.

14 59. On unanimous consent of the board of supervisors, provide technical  
15 assistance and related services to a fire district pursuant to an  
16 intergovernmental agreement.

17 60. Adopt contracting procedures for the operation of a county health  
18 system pursuant to section 11-291. Before the adoption of contracting  
19 procedures the board shall hold a public hearing. The board shall publish  
20 one notification in a newspaper of general circulation in the county seat at  
21 least fifteen days before the hearing.

22 61. Enter into an intergovernmental agreement pursuant to chapter 7,  
23 article 3 of this title for a city or town to provide emergency fire or  
24 emergency medical services pursuant to section 9-500.23 to a county island as  
25 defined in section 11-251.12. The board may charge the owners of record in  
26 the county island a fee to cover the cost of an intergovernmental agreement  
27 that provides fire and emergency medical services.

28 62. In counties that employ or have designated an animal control county  
29 enforcement agent pursuant to section 11-1005, enter into agreements with  
30 foundations or charitable organizations to solicit donations, property or  
31 services, excluding enforcement or inspection services, for use by the county  
32 enforcement agent solely to perform nonmandated services and to fund capital  
33 improvements for county animal control, subject to annual financial and  
34 performance audits by an independent party as designated by the county board  
35 of supervisors. For the purposes of this paragraph, nonmandated services are  
36 limited to low cost spay and neuter services, public education and outreach  
37 efforts, pet adoption efforts, care for pets that are victims of cruelty or  
38 neglect and support for volunteer programs.

39 63. Adopt ordinances prohibiting open fires and campfires on lands in  
40 the unincorporated areas of the county that are private property islands  
41 within the boundaries of a national forest or united states bureau of land  
42 management or state land holdings, if such a prohibition has been declared by  
43 a national forest, the united states bureau of land management or the state  
44 forester.



1           4. ENFORCE THE ORDINANCES, RULES OR REGULATIONS ADOPTED PURSUANT TO  
2 THIS SECTION CONSISTENT WITH THIS ARTICLE AND SECTION 49-261.

3           5. SEEK A CIVIL PENALTY OF NOT MORE THAN TWO THOUSAND FIVE HUNDRED  
4 DOLLARS FOR EACH VIOLATION. EACH DAY OF A VIOLATION CONSTITUTES A SEPARATE  
5 OFFENSE.

6           B. AN ORDINANCE, RULE OR REGULATION ADOPTED PURSUANT TO THIS SECTION  
7 SHALL NOT BE MORE STRINGENT THAN OR CONFLICT WITH ANY REQUIREMENT OF THE  
8 CLEAN WATER ACT.

9           C. A COUNTY THAT OPERATES A REGULATED SMALL MUNICIPAL SEPARATE STORM  
10 SEWER SYSTEM SHALL CONDUCT ITS POLLUTANT DISCHARGE ELIMINATION SYSTEM  
11 STORMWATER MANAGEMENT PROGRAM AND SHALL LIMIT THE APPLICATION OF ANY  
12 ORDINANCE, RULE OR REGULATION AS FOLLOWS:

13           1. IN URBANIZED AREAS AS DEFINED IN 40 CODE OF FEDERAL REGULATIONS  
14 SECTION 122.32 AND AS NECESSARY TO MEET THE REQUIREMENTS OF 40 CODE OF  
15 FEDERAL REGULATIONS SECTION 122.34(b)(3).

16           2. AS NECESSARY TO MEET THE REQUIREMENTS OF PUBLIC EDUCATION AND  
17 OUTREACH, PUBLIC INVOLVEMENT AND PARTICIPATION AS PROVIDED BY THE CLEAN WATER  
18 ACT.

19           D. FOR THE PURPOSES OF THIS SECTION AND EXCEPT AS REQUIRED BY THE  
20 CLEAN WATER ACT, A COUNTY MAY NOT REQUIRE A PERMIT FROM ANY PERSON WITH A  
21 FEDERAL OR STATE POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT REGULATING THE  
22 SAME ACTIVITY AT THE SAME LOCATION.

23           E. FOR THE PURPOSES OF THIS SECTION AND EXCEPT AS REQUIRED BY 40 CODE  
24 OF FEDERAL REGULATIONS SECTION 122.34, A COUNTY MAY NOT REGULATE ANY PERSON  
25 OR ACTIVITY EXEMPT UNDER 33 UNITED STATES CODE SECTION 134(1), 40 CODE OF  
26 FEDERAL REGULATIONS SECTION 122.3 OR ARIZONA ADMINISTRATIVE CODE  
27 18-9-1 902(G).

28           F. FOR THE PURPOSES OF ADOPTING AN ORDINANCE, RULE OR REGULATION  
29 PURSUANT TO THIS SECTION, A COUNTY SHALL USE THE DEFINITIONS PRESCRIBED IN  
30 SECTION 49-255.

31           G. A COUNTY THAT ADOPTS ORDINANCES, REGULATIONS OR RULES PURSUANT TO  
32 THIS SECTION MAY ENFORCE THOSE ORDINANCES, REGULATIONS OR RULES AS PRESCRIBED  
33 BY SECTIONS 49-262 AND 49-263. FOR THE PURPOSES OF ENFORCEMENT PURSUANT TO  
34 SECTIONS 49-262 AND 49-263, THE COUNTY'S ATTORNEY AND THE COUNTY'S DESIGNATED  
35 DEPARTMENT HEAD HAS THE AUTHORITY PRESCRIBED FOR THE ATTORNEY GENERAL AND THE  
36 DIRECTOR OF ENVIRONMENTAL QUALITY, RESPECTIVELY, PURSUANT TO THOSE SECTIONS.

37           H. FEES RECEIVED BY A COUNTY PURSUANT TO AN ORDINANCE OR RULE ADOPTED  
38 PURSUANT TO THIS ARTICLE SHALL BE DEPOSITED WITH THE COUNTY FOR USE IN  
39 ADMINISTERING THE PROGRAM OR PLAN ADOPTED PURSUANT TO THIS SECTION.

40           I. FOR THE PURPOSES OF THIS ARTICLE, "COUNTY" MEANS A COUNTY THAT  
41 OPERATES A REGULATED SMALL MUNICIPAL SEPARATE STORMWATER SYSTEM PURSUANT TO  
42 40 CODE OF FEDERAL REGULATIONS SECTION 122.32.

1           49-372. Administrative director; enforcement

2           A. A COUNTY MAY DESIGNATE AND AUTHORIZE AN ADMINISTRATIVE DIRECTOR FOR  
3 THE PROGRAM OR PLAN PRESCRIBED BY SECTION 49-371 TO PERFORM ENFORCEMENT  
4 DUTIES. IF THE ADMINISTRATIVE DIRECTOR DETERMINES THAT A PERSON IS IN  
5 VIOLATION OF AN ORDINANCE, RULE OR REGULATION ADOPTED PURSUANT TO SECTION  
6 49-371 OR A PERMIT AUTHORIZED PURSUANT TO THAT SECTION, THE ADMINISTRATIVE  
7 DIRECTOR MAY TAKE ACTIONS CONSISTENT WITH THIS ARTICLE AND SECTION 49-261.

8           B. IN ADDITION TO THE REMEDIES PROVIDED IN THIS ARTICLE, ENFORCEMENT  
9 OF ANY ORDINANCE, RULE OR REGULATION ADOPTED PURSUANT TO SECTION 49-371 MAY  
10 INCLUDE SEEKING CIVIL PENALTIES, INJUNCTIVE RELIEF OR OTHER EQUITABLE RELIEF.

11           C. NOTWITHSTANDING SECTIONS 49-262 AND 49-263, PENALTIES OBTAINED  
12 PURSUANT TO THIS ARTICLE BY A COUNTY SHALL BE DEPOSITED WITH THE COUNTY.

13           D. A COUNTY SHALL NOT RECEIVE CIVIL PENALTIES UNDER THIS SECTION IF AN  
14 INTERESTED PERSON, THE UNITED STATES, THIS STATE OR ANOTHER POLITICAL  
15 SUBDIVISION OR AGENCY OF THIS STATE HAS RECEIVED CIVIL PENALTIES OR IS  
16 DILIGENTLY PROSECUTING A CIVIL PENALTY ACTION IN A COURT OF THE UNITED STATES  
17 OR THIS STATE, OR IN AN ADMINISTRATIVE ENFORCEMENT PROCEEDING, WITH RESPECT  
18 TO THE SAME ALLEGATIONS, STANDARD, REQUIREMENT OR ORDER. THIS STATE, AND ANY  
19 POLITICAL SUBDIVISION OR AGENCY OF THIS STATE THAT IS OR MAY BE AFFECTED BY A  
20 CIVIL, JUDICIAL OR ADMINISTRATIVE ACTION, MAY INTERVENE AS A MATTER OF RIGHT  
21 IN ANY PENDING CIVIL, JUDICIAL OR ADMINISTRATIVE ACTION FOR PURPOSES OF  
22 OBTAINING INJUNCTIVE OR DECLARATORY RELIEF.